

OFFICE OF THE CLERK  
**UNITED STATES COURT OF APPEALS**  
FOR THE FIRST CIRCUIT

RICHARD CUSHING DONOVAN  
CLERK

JOHN JOSEPH MOAKLEY  
UNITED STATES COURTHOUSE  
1 COURTHOUSE WAY, SUITE 2500  
BOSTON, MA 02210  
(617) 748-9057

**NOTICE OF AMENDMENT TO LOCAL RULE 27**  
**AND INTERNAL OPERATING PROCEDURE V**

The United States Court of Appeals for the First Circuit previously provided notice of the proposed adoption of a new subsection (d) to Local Rule 27 (“Motions”) and the amendment of Internal Operating Procedure V (“Motion Procedures”).

The Court of Appeals hereby provides notice of the adoption of the proposed changes, with some additional minor modification in light of the comments received. The full text of new Local Rule 27(d) and of Internal Operating Procedure V, with the amendments incorporated, is attached. These changes are effective immediately.

March 16, 2006

---

Richard Cushing Donovan

## **Local Rule 27. Motions**

**(d) Motions Decided by the Clerk.** The clerk is authorized to dispose of certain routine, procedural motions in accordance with the Court's standing instructions. Any party adversely affected by the action of the clerk on a motion may promptly move for reconsideration. Unless the clerk grants reconsideration, the motion for reconsideration will be submitted to a single judge or panel. See Internal Operating Procedure V(C).

## **Internal Operating Procedure V. Motion Procedures**

**A. General.** In accordance with Fed. R. App. P. 27(d) (3), all motions must be accompanied by 3 copies, and a proof of service showing the type of service that was made, i.e., by mail or by hand delivery. The date of service establishes the due date for filing the response per Fed. R. App. P. 27(a)(3).

**B. Processing.** All motions must be filed with the clerk. The single judge matters are transmitted to a single judge and the matters calling for three judge action are transmitted to a three judge panel. The motion judge and the motion panel duties are rotated among the judges of this Court. All motions are decided without oral argument, unless the Court orders otherwise. The motions are submitted to the Court after the response time provided in Fed. R. App. P. 27(a)(3)(A) has run except for (1) routine procedural motions which are usually processed forthwith, and (2) emergency motions which may be handled on an expedited basis. The court will not ordinarily await the filing of a reply to a response before acting on a motion and response. If a movant intends to file a reply to a response, the movant shall promptly notify the clerk of the intended filing.

**C. Disposition By the Clerk.** Pursuant to Fed. R. App. P. 27(b) and 1st Cir. R. 27(d), the clerk is authorized to dispose of certain routine, procedural motions in accordance with the Court's standing instructions. Typical examples include motions for an enlargement of time, to consolidate, to correct filings, to correct captions, and to withdraw as counsel. Effective March 16, 2006, clerk's orders are identifiable by their form: a clerk's order states on its face that it is entered pursuant to 1st Cir. R. 27(d).

**D. Emergencies.** If counsel anticipates that a matter may arise requiring emergency action by the court outside of ordinary business hours, the court's local rules advise counsel to contact the Clerk's Office at the earliest opportunity to discuss the matter. Depending on the circumstances, the Clerk's Office, in consultation with the duty judge and the Staff Attorney's Office, may make special arrangements for after hours filings and responses, issuance of orders after hours, and similar matters. Counsel are further advised that in all emergency matters, whether or not action outside of ordinary business hours is required, the process is facilitated if counsel contacts the Clerk's Office in advance and the motion seeking expedited relief clearly indicates the date by which a ruling is requested and the reasons supporting expedition.